til the taxes are paid or the property sold for the payment thereof provided, that the lien of every tax whether now existing or hereafter attaching shall cease to exist for all purposes after thirty years from the time said tax became a lien;"

Section 3717 of said Code provides, in part, as follows:

"Every tax due upon personal property is a lien upon the real property of the owner thereof, from and after twelve o'clock m. of the first Monday in March in each year." (Amendments to Codes 1880, p. 16; in effect March 22, 1880.)

Section 3820 of said Code provides, in part, as follows:

"The Assessor shall have power to collect the taxes on all property when, in his opinion, said taxes are not a lien upon real property sufficient to secure payment of the taxes. * * *"

Statutes of California of 1903, page 130, as amended by Statutes 1921, page 352, provides:

"Section 1. Each county and city and county, may sue in its own name for the recovery of any and all moneys due or hereafter to become due as delinquent taxes or assessments upon any and all personal property, where no real property is assessed as security for the payment of such personal property taxes, or where in the judgment of the board of supervisors, there is not sufficient real property to secure the payment of such personal property taxes, whether the same be for county or city and county, and state purposes, or

either of them, and for all penalties and interest charges due upon said taxes for non-payment thereof.

"Sec. 2. Suit may be brought in like manner for the recovery of any and all county or city and county, or state moneys due or hereafter to become due as delinquent taxes or assessments upon any and all improvements when situated upon leased land when said land is exempt from taxation.

"Sec. 3. On the trial of any such suit the assessment roll of said county or city and county, or a copy of any entry therein duly certified, showing unpaid taxes or assessments against the defendant or his property, or, in cases where the defendant is sued in a representative capacity, against any person or estate or the property thereof which he represents, shall be prima facie evidence of the plaintiff's right to recover.

"Sec. 4. All actions now pending for the collection of such taxes may be carried on and prosecuted under the provisions and in accordance with this act.

"Sec. 5. All acts and parts of acts in conflict with this act are hereby repealed, but the method of collecting such taxes herein provided shall not be deemed to be the exclusive method, nor shall the provisions of this act in any manner abrogate or modify the provisions of sections three thousand eight hundred thirty-one or three thousand eight hundred ninety-nine of the Political Code of the State of California." (Statutes 1921, p. 352; in effect July 29, 1921.)

Section 3821 of said Code provided:

> "In the case provided for in the preceding section, at the time of making the assessment, or at any time before noon of the first Monday in March following the assessment, the assessor may collect the taxes by seizure and sale of any personal property owned by the person against whom the tax is assessed, or if no personal property can be found, then the assessor may collect the taxes by seizure and sale of the possession of, claim to or right to the possession of the land. The assessor must keep a record of the property so seized and sold." (Statutes 1937, p. 2369; in effect August 27, 1937.)

II. PERTINENT FEDERAL STATUTORY AND CONSTITUTIONAL PROVISIONS.

The Tenth Amendment to the United States Constitution provides:

> "Powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively, or to the people."

Sec. 1 of Article I of the Federal Constitution provides:

> "All legislative powers herein granted shall be vested in a Congress of the United States."

Sec. 8 of Article I of the Federal Constitution provides:

> "Congress is authorized to make all laws which shall be necessary and proper for carrying into execution general powers."

Sec. 2 of Title I of the Agricultural Adjustment Act of 1933 (May 12, 1933, c. 25, 48 Stat. 31) provided the policy of Congress was:

> "To establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of Agricultural commodities in the base period."

Sec. 11 (48 Stat. 38) of the A.A.A. of 1933 designated *cotton* as one of the "basic agricultural commodities".

Sec. 2 of Title I of the National Industrial Recovery Act (June 16, 1933—48 Stats. 195) provided, in part as follows:

> "(a) To effectuate the policy of this title, the President is hereby authorized to establish such agencies, * * * as he may find necessary, * * *"
>
> "(b) The President may delegate any of his functions and powers under this title to such * * * agents * * * as he may designate * * *"
>
> "(c) * * * any agencies established hereunder shall cease to exist at the expiration of two years after the date of enactment of this Act * * *."

Sec. 302 of the Agricultural Adjustment Act of 1938 (52 Stats. 31, 43) provides, in part, as follows:

> "(a) The Commodity Credit Corporation is authorized, upon recommendation of the Secretary and with the approval of the President, to

make available loans on agricultural commodities (including dairy products). Except as otherwise provided in this section, the amount, terms and conditions of such loans shall be fixed by the Secretary, subject to the approval of the Corporation and the President.

* * * * * * *

"(c) The Corporation is directed to make available to cooperators loans upon cotton during any marketing year * * *.

* * * * * * *

"(f) For the purposes of subsections * * *, (c) * * *, a cooperator shall be a producer on whose farm the acreage planted to the Commodity for the crop with respect to which the loan is made does not exceed the farm acreage allotment for the commodity under this title, * * *.

* * * * * * *

"(h) No producer shall be personally liable for any deficiency arising from the sale of the collateral securing any loan under this section unless such loan was obtained through fraudulent representations by the producer.

* * * * * * *"

Public Act No. 442, 75th Congress (52 Stat. 107), March 8, 1938, provides, as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as of the 31st of March in each year and as soon as possible thereafter, beginning with March 31, 1938, an appraisal of all the assets and liabilities of the Commodity Credit Corporation for the purpose of determining the net worth of the Commodity

Credit Corporation shall be made by the Secretary of the Treasury. The value of assets shall, insofar as possible, be determined on the basis of market prices at the time of appraisal and a report of any such appraisal shall be submitted to the President as soon as possible after it has been made. In the event that any such appraisal shall establish that the net worth of the Commodity Credit Corporation is less than $100,000,000, the Secretary of the Treasury, on behalf of the United States, shall restore the amount of such capital impairment by a contribution to the Commodity Credit Corporation in the amount of such impairment. To enable the Secretary of the Treasury to make such payment to the Commodity Credit Corporation, there is hereby authorized to be appropriated annually, commencing with the fiscal year 1938, out of any money in the Treasury not otherwise appropriated, an amount equal to any capital impairment found to exist by virtue of any appraisal as provided herein.

Sec. 2. In the event that any appraisal pursuant to section 1 of this Act shall establish that the net worth of the Commodity Credit Corporation is in excess of $100,000,000, such excess shall, as soon as practicable after such appraisal, be deposited in the Treasury by the Commodity Credit Corporation and shall be credited to miscellaneous receipts. The Secretary of the Treasury is directed, as soon as practicable, to use any amounts so deposited to retire an equivalent amount of the public debt, which amount shall be in addition to any other amount required to be used for such purpose.

Sec. 3. The Secretary of Agriculture, the Governor of the Farm Credit Administration, and the Reconstruction Finance Corporation are hereby authorized and directed to transfer to the United States all right, title, and interest in and to the capital stock of the Commodity Credit Corporation which each of them now holds. All rights of the United States arising out of the ownership of such capital stock shall be exercised by the President, or by such officer, officers, agency, or agencies as he shall designate, and in such manner as he shall prescribe.

Sec. 4. With the approval of the Secretary of the Treasury, the Commodity Credit Corporation is authorized to issue and have outstanding at any one time, bonds, notes, debentures, and other similar obligations in an aggregate amount not exceeding $500,000,000. Such obligations shall be in such forms and denominations, shall have such maturities, shall bear such rates of interest, shall be subject to such terms and conditions, and shall be issued in such manner and sold at such prices as may be prescribed by the Commodity Credit Corporation, with the approval of the Secretary of the Treasury. Such obligations shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such obligations shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In the event that the Commodity Credit Corporation shall be unable to

pay upon demand, when due, the principal of, or interest on, such obligations, the Secretary of the Treasury shall pay to the holder the amount hereof which is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such obligations. The Secretary of the Treasury, in his discretion, is authorized to purchase any obligations of the Commodity Credit Corporation issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of the Commodity Credit Corporation's obligations hereunder. The Secretary of the Treasury may at any time sell any of the obligations of the Commodity Credit Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Commodity Credit Corporation shall be treated as public-debt transactions of the United States. No such obligations shall be issued in excess of the assets of the Commodity Credit Corporation, including the assets to be obtained from the proceeds of such obligations, but a failure to comply with this provision shall not invalidate the obligations or the guaranty of the same. The Commodity Credit Corporation shall have power to purchase such obligations in the open market at any time and at any price.

Sec. 5. Bonds, notes, debentures, and other similar obligations issued by the Commodity Credit Corporation under the provisions of this Act shall be deemed and held to be instrumentalities of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation (except surtaxes, estate, inheritance, and gift taxes). The Commodity Credit Corporation, including its franchise, its capital, reserves, and surplus, and its income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the Commodity Credit Corporation shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. (Approved, March 8, 1938.)"

EXHIBIT "B"

CERTIFICATE OF INCORPORATION OF COMMODITY CREDIT CORPORATION.

First: The name of this corporation is Commodity Credit Corporation.

Second: The principal office of this corporation in the State of Delaware is to be located at No. 100 West Tenth Street in the City of Wilmington, County of New Castle, and until otherwise designated by the Board of Directors its resident agent shall be The Corporation Trust Company, No. 100 West Tenth Street, Wilmington, Delaware.

Third: The objects and purposes for which and for any of which this corporation is formed are, to do any or all of the things herein set forth to the same extent as natural persons might or could do, viz.:

(a) To do any and all things which may be necessary to accomplish the purposes of the following Acts of Congress of the United States of America, and any amendment or amendments heretofore or hereafter made thereto;

1. The Agricultural Adjustment Act, approved May 12, 1933.

2. The National Industrial Recovery Act, approved June 16, 1933.

3. The Federal Emergency Relief Act of 1933, approved May 12, 1933.

4. Reconstruction Finance Corporation Act, approved January 22, 1932.

5. The Federal Farm Loan Act, approved July 17, 1916.

6. The Farm Credit Act of 1933, approved June 16, 1933.

7. The Emergency Relief and Construction Act of 1932, approved July 21, 1932.

(b) To purchase, or otherwise acquire, to hold, or otherwise to deal in, to sell or otherwise dispose of any and all agricultural and/or other commodities, and/or products thereof and to loan and/or borrow money upon the same.

(c) To enter into and to encourage farmers, producers and others to enter into marketing plans and agreements and to cooperate in any plan which provides for reduction in the acreage or reduction in the production for market of agricultural commodities.

(d) To engage in any activity in connection with or involving the production, carrying, shipping, storing, exporting, warehousing, handling, preparing, manufacturing, processing and marketing of agricultural and/or other commodities and/or products thereof.

To borrow money and to draw, make, accept, endorse, warrant, guarantee, transfer, assign, execute and issue bonds, debentures, mortgages, promissory notes, bills of exchange, warrants and all kinds of obligations and non-negotiable, negotiable or transferable instruments without limit as to amount, and for the security of any of its obligations to convey, trans-

fer, assign, deliver, mortgage, and/or pledge all or any part of its property or assets upon such terms and conditions as the Board of Directors shall authorize:

(e) Without limiting the generality of the foregoing, to borrow money for the purpose of (1) purchasing, storing, handling, and/or processing agricultural and/or other commodities and/or products thereof or any surplus of the same and (2) disposing of or removing the same through orderly marketing in the United States and/or elsewhere.

(f) To loan money, to buy, discount, sell, rediscount or otherwise deal in notes, warehouse receipts, pledges, bills of lading, freight receipts, trust receipts, open accounts, mortgages and other similar evidences of debt, or to loan money and to take notes, warehouse receipts, pledges, bills of lading, freight receipts, trust receipts, open accounts, mortgages and other evidences of debt as collateral security therefor.

(g) To take and hold for any of its purposes, by bequest, devise, gift, purchase, lease or otherwise, either absolutely or in trust, any property, real or personal, in the District of Columbia, any of the States, territories, or Colonies of the United States and in foreign countries, without limitation as to amount or value; to own, operate, manage, lease, mortgage, pledge, sell, assign, and transfer or otherwise dispose of and exercise all privileges of ownership over such property and to invest and reinvest any principal, and deal with and expand its income and principal within or without the State of Delaware in

such manner as in the judgment of its directors will best promote its objects and purposes.

(h) To guarantee, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of shares of the capital stock of, or any bonds, securities or evidences of indebtedness created by any other corporation or corporations organized under the laws of this state or any other state, country, nation or government, and while the owner thereof to exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

(i) To enter into, make, perform and carry out contracts of every kind and description for any lawful purpose without limit as to amount, with any person, firm, association, corporation, municipality, county, state, body politic, territory or government or colony or dependency thereof.

(j) To sell, deal in, store, handle, process, transport, deliver and/or accept delivery of agricultural and/or other commodities and/or products thereof and/or to make contracts for the purchase or sale of the same, by itself or through subsidiaries or other agencies or to act as agent, broker, shipper, consignee, consignor, trustee or factor with respect thereto and as such agent, broker, shipper, consignee, consignor, trustee, or factor, to buy, sell, deal in, hypothecate, pledge, mortgage, store, handle, process, transport, manufacture, deliver or accept delivery of the aforesaid commodities and/or products thereof and/or to make contracts for the purchase or sale of the same

on behalf of the owner thereof and to fix and collect and deduct all charges for such services.

(k) To acquire by purchase, lease or construction, or in any other manner, storage and other physical facilities for the handling, carrying, processing, manufacturing, storing, preparing for market and marketing agricultural and/or other commodities, and/or products thereof.

(l) To have one or more offices, to carry on all or any of its operations and business and without restriction or limit as to amount, in any of the States, Districts, Territories or Colonies of the United States, and in any and all foreign countries.

(m) In general, to have and to exercise all the powers and privileges conferred by the General Corporation Laws of Delaware upon corporations, and to do all and everything necessary, suitable and proper for the accomplishment of any of the purposes or for the attainment of any of the objects or for the furtherance of any of the powers herein set forth, either alone or in association with other corporations, firms, agencies or individuals, and to do every other act or thing lawfully incident or appurtenant to or growing out of or connected with any of the aforesaid objects, purposes and/or powers.

The objects and purposes specified in the foregoing clauses shall, except as otherwise expressed, be in no wise limited or restricted by reference to or inference from the terms of any other clause in this Certificate of Incorporation, but the objects and purposes speci-

fied in each of the foregoing clauses shall be regarded as independent objects and purposes.

The foregoing clauses shall be construed both as purposes and powers but no recitation, expression or declaration of specific or specified powers or purposes herein enumerated shall be deemed to be exclusive, and it is hereby expressly declared that this corporation shall have and exercise all powers conferred on it by law.

Fourth: The total number of shares of stock which this corporation shall have authority to issue is Thirty Thousand (30,000) and the par value of such shares is One Hundred Dollars ($100.00) amounting in the aggregate to Three Million Dollars ($3,000,000.00).

Fifth: The minimum amount of capital with which the corporation will commence business is One Thousand Dollars ($1,000).

Sixth: The names and places of residence of each of the original incorporators are as follows:

Name	Residence
Henry A. Wallace	Washington, D. C.
Henry Morgenthau, Jr.	Washington, D. C.
Oscar Johnston	Washington, D. C.

Seventh: This corporation is to have perpetual existence.

Eighth: The private property of the stockholders shall not be subject to the payment of corporate duties to any extent whatever.

Ninth: The business of this corporation shall be managed by its board of directors except as in this certificate of incorporation or in the by-laws otherwise provided. The number of directors of the corporation shall be as specified in the by-laws and such number may from time to time be increased or decreased in such manner as may be prescribed in the by-laws, provided the number of directors of the corporation shall not be less than three. Directors need not be officers or stockholders of this corporation. The election of Directors need not be by ballot unless the by-laws so provide. In furtherance and not in limitation of the powers conferred by statute, the board of directors is expressly authorized:

To make and alter the by-laws of the corporation.

To authorize and cause to be executed mortgages and liens upon the real and personal property of the corporation.

To set apart out of any of the funds of the corporation available for dividends a reserve or reserves for any proper purpose or to abolish any such reserve in the manner in which it was created.

By resolution or resolutions, passed by a majority of the whole board to designate one or more committees, each committee to consist of two or more of the directors of the corporation, which, to the extent provided in said resolution or resolutions or in the by-laws of the corporation, shall have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation,

and may have power to authorize the seal of the corporation to be affixed to all papers which may require it. Such committee or committees shall have such name or names as may be stated in the by-laws of the corporation or as may be determined from time to time by resolution adopted by the board of directors.

When and as authorized by the affirmative vote of the holders of a majority of the stock issued and outstanding having voting power given at a stockholders' meeting duly called for that purpose, or when authorized by the written consent of the holders of a majority of the voting stock issued and outstanding, the board of directors shall have power and authority to sell, lease, or exchange all of the property and assets of the corporation, including its good will and its corporate franchises, upon such terms and conditions and for such consideration, which may be in whole or in part shares of stock in, and/or other securities of, any other corporation or corporations, as its board of directors shall deem expedient and for the best interests of the corporation.

The corporation may in its by-laws confer powers upon its board of directors in addition to the foregoing, and in addition to the powers and authorities expressly conferred upon it by statute.

Tenth: Stockholders shall not have the preemptive right to subscribe to any new or additional issue of stock of this corporation or any part thereof.

Eleventh: Both stockholders and directors shall have power, if the by-laws so provide, to hold their

meetings, and to have one or more offices within or without the State of Delaware, and to keep the books of this corporation (subject to the provisions of the statutes), outside of the State of Delaware at such places as may be from time to time designated by the Board of Directors.

Twelfth: The corporation reserves the right to amend, alter, change or repeal any provision contained in this certificate of incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

We, the undersigned, being each of the incorporators hereinbefore named for the purpose of forming a corporation to do business both within and without the State of Delaware, and in pursuance of the General Corporation Law of the State of Delaware, being chapter 65 of the Revised Code of Delaware, and the acts amendatory thereof and supplemental thereto, do make this certificate, hereby declaring and certifying that the facts herein stated are true, and accordingly have hereunto set our hands and seals this sixteenth day of October, 1933.

In presence of	H. A. Wallace	(Seal)
Lee Pierson	Oscar Johnston	(Seal)
Robert Orr	H. Morgenthau, Jr.	(Seal)

District of Columbia.—ss.

Be it remembered, that on this 16th day of October, A. D. 1933, personally appeared before me, the Sub-

scriber, a Notary Public in and for the District of Columbia, Henry A. Wallace, Henry Morgenthau, Jr., and Oscar Johnston, being all of the parties to the foregoing Certificate of Incorporation, known to me personally to be such, and they acknowledged the said Certificate to be their act and deed and that the facts therein stated are truly set forth.

Given under my hand and seal of office the day and year aforesaid.

John P. Wenchel
Notary Public, D. C.

John P. Wenchel
Notary Public
District of Columbia

STATE OF DELAWARE
OFFICE OF SECRETARY OF STATE.

I, Josiah Marvel, Jr., Secretary of State of the State of Delaware, do hereby certify that the above and foregoing is a true and correct copy of Certificate of Incorporation of the "Commodity Credit Corporation", as received and filed in this office the seventeenth day of October, A. D. 1933, at 11 o'clock A. M.

In testimony whereof, I have hereunto set my hand and official seal at Dover, this twenty-sixth day of December in the year of our Lord one thousand nine hundred and thirty-nine.

(Seal) Josiah Marvel Jr.
Secretary of State.

EXHIBIT "C"

COTTON PRODUCER'S NOTE.

On or before July 31, 1938, for value received, the undersigned promises to pay to the order of.....
....., payee, at the office of the Commodity Credit Corporation, Washington, D. C. ..... dollars, with interest from the date hereof at the rate of 4 per centum per annum payable at maturity. The makers and endorsers severally waive presentment for payment, demand, protest, notice of protest, and notice of nonpayment of this note.

This note is secured by a pledge of warehouse receipts representing.....bales of cotton aggregating.....pounds.

Witness:

.....

Name Address (Signature of Producer)

(Fill all blanks with ink, indelible, pencil, or typewriter in both note and advice of loan agreement. Only white copy marked original is to be executed; the colored copy marked duplicate is to be retained by the producer. No papers containing additions, erasures, or alterations will be accepted by Reconstruction Finance Corporation or Commodity Credit Corporation.)

Loan Agreement.

Print (Producer..... County.....) Print
or (Address..... R.F.D..... State.....) or
Type ( ) Type
to secure note of..... of $..... Payable
Date (Insert face amount)
to.....
(Name of payee)

1. The undersigned hereby sells, assigns, pledges, and/or hypothecates to said payee and any subsequent holder the following warehouse receipts for cotton as collateral security for the payment of the indebtedness as evidenced by the note referred to above in this loan agreement:

(Obtain information for schedule from warehouse receipts. If space insufficient, attach schedule firmly. Have producer and warehouseman identify same by signature. Note in space below that schedule is attached and fill in line marked: "Total" only.)

Schedule of Warehouse Receipts.

Warehouse Receipt Number	Number Bales	Weight Pounds	Loan Value per Pound	Amount
				$

Name of Warehouse.....
Address .....
All cotton securing this note must be in same warehouse.

Total	XXX	$

The undersigned producer represents and warrants that the cotton listed in the above or attached schedule

is of the grade and staple eligible for a loan of the amount per pound set forth in the above or attached schedule, determined in accordance with paragraph 3 of the printed Instructions (1937-38 C.C.C. Cotton Form 1), and agrees that any subsequent determination of the grade and staple of such cotton, made by or under the direction of the Bureau of Agricultural Economics, United States Department of Agriculture, shall be final, conclusive, and binding as to the true class of such cotton.

Warehouseman's Certificate and Waiver.

All charges on the cotton listed in the above or attached schedule are paid to August 1, 1937, or dates of warehouse receipts, whichever are later. This cotton is in existence, is undamaged, and is and will be kept under cover within a structure enclosed in such a manner that the cotton is adequately protected from weather damage. The warehouse receipts listed above or in the attached schedule state in their printed terms or are stamped "Insured". This cotton is insured against loss or damage by fire for the full market value and will be kept insured so long as the receipt is outstanding. Lien for all charges, including receiving, tagging, weighing, storing, sampling, turning out, and insurance, will not be claimed for more than 25 cents per bale for each full month and the proportionate part of 25 cents for each fractional part of a month, or the charges applicable under the warehouseman's established tariffs in existence at the date of the receipts, whichever is less. Commodity Credit Corporation may, by agents or otherwise, inspect the cotton,

the warehouse, and the records of the warehouse at any time. The warehouseman agrees that if the cotton is ordered shipped by Commodity Credit Corporation, for the purpose of reconcentration or otherwise, shipments will be made promptly and storage charges will stop on receipt of shipping instructions and surrender of the warehouse receipts unless the cotton is shipped within a reasonable time, as determined by the Corporation. All cotton listed in the above or attached schedule is guaranteed to be of the grade and staple eligible for a loan of the amount per pound set forth in the above or attached schedule, determined in accordance with the provisions of paragraph 3 of the printed Instructions (1937-38 C.C.C. Cotton Form 1).

In consideration of the benefits accruing from the storage of said cotton, the undersigned warehouseman hereby agrees, in the event said cotton is subsequently determined by the Bureau of Agricultural Economics, United States Department of Agriculture, to be below the grade and style eligible for a loan of the amount per pound stated in the above or attached schedule, to reimburse Commodity Credit Corporation for any loss on account of said loan to the extent of the difference per pound between the value of the lowest grade eligible for the loan made, as set forth in the above or attached schedule, and the actual value of said cotton determined by said Bureau of Agricultural Economics.

Dated..... .....

.....
Signature of warehouseman

By.....
(Agent or officer—Title)

(Attention is called to paragraph (9) referring to the criminal section quoted at the end of this agreement. Warehouseman's certificate must be dated more than 5 days preceding date of above mentioned note.)

2. In consideration of the loan evidenced by the aforementioned note, the undersigned represents and warrants to and agrees with all holders of the note as follows:

That the cotton represented by warehouse receipts list herein or in the attached schedule was produced in 1937 by the undersigned as.....
(State whether landowner, landlord, or tenant. If as tenant, landlord must execute lien waiver below. Landlord cannot borrow on tenant's share nor on cotton taken in on account).

That he is the owner of such cotton, has the legal right to pledge same and that the beneficial title thereto is and always has been in the undersigned producer. (A misstatement or misrepresentation in regard to any of the foregoing renders the producer personally liable under this loan agreement, and subject to criminal prosecution under the provisions of Section 16 (a) of the Reconstruction Finance Corporation Act, as amended, printed at the end hereof).

List of Lienholders and Their Waiver and Consent Pledge.

The party making this loan agreement certifies and warrants that the cotton covered by this agree-

We certify that we are the herein-named holders of liens on the cotton covered by this agreement

ment is free and clear of any and all liens and encumbrances except in favor of the lienholders listed herein below. If no liens, insert "None".

and hereby authorize (1) the pledge of the same in accordance with this agreement and the above described note and any extension or renewal thereof, and (2) redelivery of warehouse receipts on payments of the loan, and (3) payment of any proceeds of this loan and of the proceeds of the sale of such cotton or insurance proceeds to the party making this loan agreement.

Names of Lienholders Including Federal Agencies and Landlords.	Signature of Lienholders or Agents as Provided in Section 10 of 1937-38 C.C.C. Cotton Form 1.
.....	.....
.....	.....
.....	.....

C.C.C. Cotton Form A

(Advice of Loan to be detached)

Advice of Loan

Lending agency must detach this slip and mail to Commodity Credit Corporation, Washington, D.C.

To: Commodity Credit Corporation
Washington, D. C.

.....
Date

We have this day made Cotton Producer's Loan as follows:

9 Cent Loans
No. Bales.....Amount

8 Cent Loans
No. Bales.....Amount

7¾ Cent Loans
No. Bales.....Amount

Total Loans
No. Bales.....Amount

.....
(Name of warehouse where cotton stored)

.....
(Lending Agency)

.....
(Address of warehouse City and State)

.....
(Address of lending agency—City and State)

3. Any holder may declare the note immediately due and payable upon the occurrence of any of the following events:

(a) When and so long as the price of middling ⅞ inch spot cotton on the New Orleans market, as determined by the Bureau of Agricultural Economics of the United States Department of Agriculture, shall be at or above 15 cents per pound.

(b) Upon discovery that the undersigned has made any misrepresentation herein or in connection with the loan evidence by said note.

(c) Upon any breach of warranty of the undersigned in this loan agreement contained or upon any failure on the part of the undersigned to comply with the agreements referred to in paragraph (8).

(d) Upon the filing by the undersigned of a petition in bankruptcy or for a composition or extension of debts under the Bankruptcy Act.

4. After July 31, 1938, or on the happening and continuance of any of the foregoing events, any holder is authorized to place all or any part of said cotton in any pool or pools with any other cotton held by the holder under generally similar loan agreements, and either by pool or separate contract, to sell, assign, transfer, and deliver the cotton or cotton documents, evidencing title thereto, at such time, in such manner, for cash or upon such terms and conditions, as such holder may determine, at any cotton exchange, or elsewhere, or through any agency, at public or private sale, for immediate or future delivery, and without demand, advertisement, or notice of the time and place of sale or adjournment thereof or otherwise; and upon such sale, the holder may become the purchaser of the whole or any part of such collateral security.

5. After deducting all fees, cost, and expenses incident to insuring, carrying, handling, and marketing the collateral and accounting to the undersigned producer, including reasonable attorney fees, the holder shall apply the residue of any sales proceeds or insurance proceeds toward the payment of the above-mentioned note, returning the overplus, if any, only to the

undersigned, or his personal representatives, without right of assignment or substitution of any other party. The undersigned producer shall be and remain liable to the holder for any deficiency only in the event that he does not reduce cotton acreage or production in accordance with the provisions of paragraph 8 hereof, or has made any misrepresentation herein or in connection with the loan represented by the above-mentioned note, or in the event of a breach of warranty in this loan agreement contained.

6. The undersigned agrees that if any Federal agency or instrumentality shall become the holder of the above mentioned note, it may, before or after maturity, move the collateral cotton from one storage point to another and pay freight; may compress the commodity; may store separately, in block, or otherwise; may insure or reinsure against any risks, or otherwise handle or deal with the commodity, as may be deemed appropriate and proper subject to the terms of this loan agreement, releasing, substituting, and obtaining any and all instruments and documents, and paying or discharging any accrued or accruing charges or expenses as may in any way be appropriate or necessary therefor. Any costs and expenses connected with such handling without regard to insurance savings by reclassification or duration shall be a charge against the commodity, payable out of any proceeds thereof.

7. The undersigned further warrants for the benefit of any holder of the note, other than the payee, that he has no defenses to said note or set-offs or counterclaims against the payee; that none will be claimed

which may hereafter arise against any prior party and that in case of any judicial proceedings on said note by any such holder he hereby waives the right to any and all defenses, counterclaims, or setoffs against any or all prior parties.

8. Inasmuch as said note is eligible for discount or purchase by Commodity Credit Corporation, an agency of the United States, the undersigned agrees with and for the benefit of the United States to participate in any agricultural conservation program or any cotton production or marketing adjustment program offered to cotton producers with respect to the production or marketing of the 1938 cotton crop by the Secretary of Agriculture pursuant to the provisions of the solid Conservation and Domestic Allotment Act or legislation enacted pursuant to Senate Joint Resolution 207, Seventy-fifth Congress. Neither the payment of said note nor any action taken pursuant to this agreement shall discharge or terminate the obligations under the paragraph 8.

9. The undersigned, all lienholders and their agents by executing waiver and consent in paragraph (2) and all warehousemen by executing certificate and waiver in paragraph one (1) agree that they and each of them have full knowledge of the provisions of section 16(a) of the Reconstruction Finance Corporation Act as amended,* and have made the representations and

*Section 16(a) of the Reconstruction Finance Corporation Act provides:
"Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Corporation, or for the purpose of obtaining money, property, or anything of value, under this act, shall be punished by a fine of not more than $5000, or by imprisonment for not more than 2 years, or both."

statements contained in this loan agreement, for the purpose of influencing the Reconstruction Finance Corporation, to acquire the above-mentioned note by purchase, discount, or rediscount, or as security for a loan to the payee or its assignees, or otherwise, or to extend or renew credit in reliance thereon.

10. Unless this note is made payable to the Commodity Credit Corporation the undersigned represents he received on the date the above-mentioned note is dated the full amount thereof, without deductions for interest, commissions, storage, insurance, or other charges, and hereby acknowledges that he has received a copy of this agreement and the above mentioned note.

Read, considered, and signed.

Witness:

.....

.....

(Address)

.....

(Signature of Producer)

By.....

(For Corporate of Agent's Signature)

EXHIBIT "D"

EXECUTIVE ORDER NO. 6340.

AUTHORIZING THE FORMATION OF A CORPORATION TO BE KNOWN AS THE COMMODITY CREDIT CORPORATION.

Whereas, the Congress of the United States has declared that an acute emergency exists by reason of widespread distress and unemployment, disorganization of industry, and the impairment of the agricultural assets supporting the national credit structure, all of which affects the national public interest and welfare, and

Whereas, in order to meet the said emergency and to provide the relief necessary to protect the general welfare of the people, the Congress of the United States has enacted the following acts:

1. The Agricultural Adjustment Act, approved May 12, 1933.

2. The National Industrial Recovery Act, approved June 16, 1933.

3. The Federal Emergency Relief Act of 1933, approved May 12, 1933.

4. Reconstruction Finance Corporation Act, approved January 22, 1932.

5. The Federal Farm Loan Act, approved July 17, 1916.

6. The Farm Credit Act of 1933, approved June 16, 1933.

7. The Emergency Relief and Construction Act of 1932, approved July 21, 1932.

And whereas, in order, effectively and efficiently, to carry out the provisions of said acts it is expedient and necessary that a corporation be organized with such powers and functions as may be necessary to accomplish the purposes of said acts.

Now, therefore, under and by virtue of the authority vested in me by the National Industrial Recovery Act of June 16, 1933, it is hereby ordered that an agency, to-wit: a corporation, under the laws of Delaware, be created, said corporation to be named the Commodity Credit Corporation.

The governing body of said corporation shall consist of a board of directors composed of eight members, and the following persons, who have been invited and have given their consent to serve, shall be elected by the incorporators as such directors:

Henry A. Wallace, Secretary of Agriculture;

George N. Peek, Administrator, Agricultural Adjustment Administration;

Oscar Johnston, Director of Finance, Agricultural Adjustment Administration;

Henry Morgenthau, Jr., Governor, Farm Credit Administration;

Herman Oliphant, General Counsel, Farm Credit Administration;

Lynn P. Talley, Assistant to the Directors of the Reconstruction Finance Corporation;

E. B. Schwulst, Special Assistant to the Directors of the Reconstruction Finance Corporation;

Stanley Reed, General Counsel of the Directors of the Reconstruction Finance Corporation.

The office and principal place of business of said corporation outside of the State of Delaware shall be in the city of Washington, and branch offices may be established in such places within the United States as the said board of directors shall select and determine by and with the consent of the Secretary of Agriculture and the Governor of the Farm Credit Administration.

The capital stock of such corporation shall consist of 30,000 shares of the par value of $100 each.

The Secretary of Agriculture and the Governor of the Farm Credit Administration are hereby authorized and directed to cause said corporation to be formed, with such articles or certificate of incorporation, and by-laws, which they shall deem requisite and necessary to define the methods by which said corporation shall conduct its business.

The Secretary of Agriculture and the Governor of the Farm Credit Administration are authorized and directed to subscribe for all of said capital stock for the use and benefit of the United States. There is hereby set aside for the purpose of subscribing to the capital stock in said corporation the sum of $3,000,000 out of the appropriation of the sum of $100,000,000 authorized by Section 220 of the National Industrial Recovery Act and made by the Fourth Deficiency Act, fiscal year 1933, approved June 16, 1933. (Public No. 77, 73d Congress.)

It is hereby further ordered that any outstanding stock standing in the name of the United States shall be voted by the Secretary of Agriculture and the Governor of the Farm Credit Administration jointly, or by such person or persons as the said Secretary of Agriculture and the Governor of the Farm Credit Administration shall appoint as their joint agent or agents for that purpose. The Board of Directors (other than the initial board of directors elected by the incorporators) shall be elected and any vacancies thereon shall be filled by the Secretary of Agriculture and the Governor of the Farm Credit Administration jointly, subject to the approval of the President of the United States.

Franklin D. Roosevelt.

The White House
October 16, 1933.

EXHIBIT "E"

(PUBLIC NO. 1—74th CONGRESS.)
AN ACT.

To extend the functions of the Reconstruction Finance Corporation for two years, and for other purposes.

* * * * * * *

Sec. 7. Notwithstanding any other provisions of law, Commodity Credit Corporation, a corporation organized under the laws of the State of Delaware as an agency of the United States pursuant to the Executive Order of the President of October 16, 1933, shall continue, until April 1, 1937, or such earlier date as may be fixed by the President by Executive Order to be an agency of the United States. During the continuance of such agency, the Secretary of Agriculture and the Governor of the Farm Credit Administration are authorized and directed to continue, for the use and benefit of the United States, the present investment in the capital stock of Commodity Credit Corporation, and the corporation is hereby authorized to use all its assets, including capital and net earnings therefrom, and all moneys which have been or may hereafter be allocated to or borrowed by it, in the exercise of its functions as such agency, including the making of loans on agricultural commodities. (49 Stat. 4.)

EXHIBIT "F"

(PUBLIC NO. 2—75TH CONGRESS.)
AN ACT.

To continue the functions of the Reconstruction Finance Corporation, and for other purposes.

* * * * * * *

Sec. 2(a). Section 7 of the Act approved January 31, 1935 (Public, Numbered 1, Seventy-fourth Congress), is hereby amended by striking from the first sentence thereof "April 1, 1937" and inserting in lieu thereof "the close of business on June 30, 1939"; Section 1 of the Act approved March 31, 1936 (Public, Numbered 484, Seventy-fourth Congress), is hereby amended by striking from the first sentence thereof "February 1, 1937" and inserting in lieu thereof "the close of business on June 30, 1939"; Section 9 of the Act approved January 31, 1935 (Public, Numbered 1, Seventy-fourth Congress), is hereby amended by striking from the first sentence thereof "June 16, 1937" and inserting in lieu thereof "the close of business on June 30, 1939". (50 Stat. 5.)

EXHIBIT "G"

(PUBLIC NO. 3—76TH CONGRESS.)
(H.R. 4011.)

An Act to continue the functions of the Commodity Credit Corporation and the Export-Import Bank of Washington, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

(a) Section 7 of the Act approved January 31, 1935 (49 Stat. 4), as amended, is hereby further amended by striking from the first sentence thereof "June 30, 1939" and inserting in lieu thereof "June 30, 1941; (b) Section 9 of the Act approved January 31, 1935 (49 Stat. 4.), as amended, is hereby further amended by inserting before the period at the end of the last sentence thereof a colon and the following: "Provided further, That the Export-Import Bank of Washington shall not have outstanding at any one time loans or other obligations to it in excess of $100,000,000, the capital for which the Reconstruction Finance Corporation, when requested by the Secretary of the Treasury with the approval of the President, may continue to supply from time to time through loans or by subscription to preferred stock"; and (d) Section 4 of the Act approved March 8, 1938 (52 Stat. 108) is hereby amended by striking from the first sentence thereof "$500,000,000" and inserting in lieu thereof "$900,000,000". Approved March 4, 1939.

Office - Supreme Court, U. S.
FILED
AUG 15 1940
CHARLES ELMORE CROPLEY

TRANSCRIPT OF RECORD

Supreme Court of the United States

October Term, 1940

No. 341

COUNTY OF FRESNO, and WALTER S. HENDERSON, Jr., Assessor of the County of Fresno, State of California,

Petitioners,

vs.

COMMODITY CREDIT CORPORATION,

Respondent.

UPON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

PARKER PRINTING COMPANY, 545 SANSOME STREET, SAN FRANCISCO

No. 9204

United States

Circuit Court of Appeals

For the Ninth Circuit.

COUNTY OF FRESNO, and G. P. CUMMINGS, Assessor of the County of Fresno, State of California,

Appellant,

vs.

COMMODITY CREDIT CORPORATION,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States for the Southern District of California, Northern Division

PARKER PRINTING COMPANY, 545 SANSOME STREET, SAN FRANCISCO

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

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San Francisco, California. [1*]

*Page numbering appearing at the foot of page of original certified Transcript of Record.

In the District Court of the United States, in and for the Southern District of California, Northern Division.

Eq. No. E-26

COMMODITY CREDIT CORPORATION,
Plaintiff,

vs.

COUNTY OF FRESNO and G. P. CUMMINGS, Assessor of the County of Fresno, State of California,
Defendants.

STIPULATION

It Is Hereby Stipulated and Agreed by and between the parties to the above entitled action as follows:

1. The plaintiff herein is hereby granted leave to file an amended bill of complaint.

2. The defendants hereby withdraw their motion to dismiss the original complaint and shall forthwith file a motion to dismiss the amended bill of complaint. [30]

3. The defendants agree that no sale shall be made of any of the property as to which the plaintiff claims immunity from taxation until final determination of this cause. In case the said cause is not finally determined before the time fixed by statute for the seizure and sale regarding taxes levied and assessed in 1939 upon like property as to which plaintiff claims exemption from taxation, said defendants agree that after notice of sale is *give* the

actual sale will be postponed until the final determination of this action. In view of this agreement the temporary injunction heretofore granted may be dissolved.

4. If said case is finally decided against the plaintiff, either in whole or in part, plaintiff agrees to forthwith furnish to defendants a full and detailed statement as to the exact properties which are within the class or classes held not to be exempt from taxation.

5. In view of the equities in the instant proceedings the parties agree that the Court may provide that no interest or other penalties shall be collected from plaintiff for nonpayment of any of said taxes included in the pending cause and for subsequent years pending final determination of this action, and defendants will not object to such provision.

Dated: October 25th, 1938.

JOHN D. GOODLOE
REGINALD S. LAUGHLIN
Attorneys for Plaintiff
DAN F. CONWAY
District Attorney of County of Fresno
W. C. TUPPER
Assistant District Attorney of County of Fresno
Attorneys for County of Fresno and G. P. Cummings, Assessor of County of Fresno, State of California. [31]

U. S. WEBB
Attorney General of the State of California
By JAMES J. ARDITTO
Deputy Attorney General of the State of California
JAMES J. ARDITTO
Deputy Attorney General of the State of California
Of Counsel for County of Fresno and G. P. Cummings, Assessor of County of Fresno, State of California.

It is so ordered:
Oct. 25, 1938.

GEO. COSGRAVE,
District Judge

[Endorsed]: Filed Oct. 25, 1938. R. S. Zimmerman, Clerk. By Francis E. Cross, Deputy. [32]

[Title of District Court and Cause.]

AMENDED BILL OF COMPLAINT

Commodity Credit Corporation, by leave of court first had and obtained, files this, its Amended Bill of Complaint against the defendants above named, and alleges:

I.

That Commodity Credit Corporation is and was at all times herein mentioned an instrumentality

and agency of the United States engaged in the exercise of governmental functions, and is and was at all times herein mentioned a corporation organized and existing under and by virtue of the laws of the State of Delaware, with all of its issued and outstanding stock owned by the United [33] States and with its affairs managed by federal government officials selected by the United States as owner of such stock; that said corporation was so organized on October 17, 1933, pursuant to Executive Order of the President of the United States, No. 6340, dated October 16, 1933; that its organization was ratified and its life as a governmental instrumentality and agency was extended to April 1, 1937, by Section 7 of the Act of January 31, 1935 (Public No. 1, 74th Congress); that by Section 2 of the Act of January 26, 1937 (Public No. 2, 75th Congress) its life as a governmental instrumentality and agency was again extended to June 30, 1939, or such earlier date as may be determined by the President; that the original capital of said corporation was $3,000,000. and the funds therefor were made available by Executive Order of the President of the United States, No. 6340, dated October 16, 1933, out of the appropriation of $3,300,000,000. authorized by Section 220 of the National Industrial Recovery Act, $100,000,000. of which the President was authorized to allocate for expenditures in carrying out, among others, the purposes of the Agricultural Adjustment Act, and said appropriation

was carried in the Fourth Deficiency Act from the fiscal year 1933; that its said capital was increased by $97,000,000. pursuant to the Act of Congress of April 10, 1936 (Public No. 489, 74th Congress) which authorized and directed the stockholders of the corporation to increase the authorized capital of said corporation by $97,000,000. and directed the Reconstruction Finance Corporation to acquire that amount of non-assessable capital stock of said corporation; that by Act of Congress approved March 8, 1938 (Public No. 442, 75th Congress) provision was made that as of the 31st day of March in each year and as soon as possible thereafter, beginning with March 31, 1938, an appraisal of all the [34] assets and liabilities of said Commodity Credit Corporation for the purpose of determining the net worth of said Commodity Credit Corporation shall be made by the Secretary of the Treasury, and the value of the assets shall, insofar as possible, be determined on the basis of market prices at the time of appraisal and a report of any such appraisal shall be submitted to the President as soon as possible after it has been made, and in the event any such appraisal shall estabish that the net worth of said Commodity Credit Corporation is less than $100,000,000, the Secretary of the Treasury, on behalf of the United States, shall restore the amount of such capital impairment by a contribution to said Commodity Credit Corporation in the amount of such impairment, and to enable the Secretary of

the Treasury to make such payment to said Commodity Credit Corporation, there is authorized to be appropriated annually, commencing with the fiscal year 1938, out of any money in the Treasury not otherwise appropriated, an amount equal to any capital impairment found to exist by virtue of any such appraisal, and in the event that any such appraisal shall establish that the net worth of said Commodity Credit Corporation is in excess of $100,000,000. such excess shall, as soon as practicable after such appraisal, be deposited in the treasury of said Commodity Credit Corporation and shall be credited to miscellaneous receipts, and the Secretary of the Treasury is directed, as soon as practicable, to use any amount so deposited to retire an equivalent amount of the public debt, which amount shall be in addition to any other amount required to be used for such purpose, and the Secretary of Agriculture, the Governor of the Farm Credit Administration, and the Reconstruction Finance Corporation are authorized and directed to transfer to the United States all right, title and interest in and to the capital stock of said Commodity Credit Corporation which each of them then *hold,* [35] and all rights of the United States arising out of the ownership of such capital stock shall be exercised by the President, or by such officer, officers, agency or agencies as he shall designate, and in such manner as he shall prescribe, and with the approval of the Secretary of the Treasury, said Commodity Credit

Corporation is authorized to issue and have outstanding at any one time, bonds, notes, debentures, and other similar obligations in an aggregate amount not exceeding $500,000,000., and such obligations shall be in such forms and denominations, shall have such maturities, shall bear such rate of interest, shall be subject to such terms and conditions, and shall be in such manner and sold at such prices as may be prescribed by said Commodity Credit Corporation, with the approval of the Secretary of the Treasury, and such obligations shall be fully and unconditionally guaranteed both as to principal and interest by the United States, and such guarantees shall be expressed on the face thereof, and such obligations shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof, and in the event that said Commodity Credit Corporation shall be unable to pay upon demand, when due, the principal of, or interest on, such obligations, the Secretary of the Treasury shall pay to the holder the amount thereof so authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all rights of the holders of such obligations of said Commodity Credit Corporation so issued, and for such purpose the Secre-

tary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any [36] securities thereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of said Commodity Credit Corporation's obligations thereunder, and the Secretary of the Treasury may at any time sell any of the obligations of said Commodity Credit Corporation so acquired by him, and all redemptions, purchases and sales by the Secretary of the Treasury of the obligations of said Commodity Credit Corporation shall be treated as public-debt transactions of the United States, and no such obligations shall be issued in excess of the assets of said Commodity Credit Corporation, including the assets to be obtained from the proceeds of such obligations, but a failure to comply with such provision shall not invalidate the obligations or the guaranty of the same, and the Commodity Credit Corporation shall have power to purchase such obligations in the open market at any time and at any price, and bonds, notes, debentures and other similar obligations so issued for said Commodity Credit Corporation shall be deemed and held to be instrumentalities of the Government of the United States, and as such they and the income derived therefrom shall be exempt from Federal, State, municipal and local taxation (except surtaxes, estate, inheritance and gift taxes); that the

President of the United States by Executive Order No. 7848, dated March 22, 1938, acting by virtue of and pursuant to the authority vested in him by the Act of Congress of February 24, 1938 (Public No. 432, 75th Congress) and said Act of Congress of March 8, 1938 (Public No. 442, 75th Congress) duly designated the Secretary of the Treasury on behalf of the United States to receive from the Reconstruction Finance Corporation all of said capital stock as the Reconstruction Finance Corporation may hold pursuant to any provision of law referred to in subsection (b) of Section I of said Act of February 24, 1938, [37] and to receive from the Secretary of Agriculture and the Governor of the Farm Credit Administration such stock of said Commodity Credit Corporation as they held on March 22, 1938, and the Secretary of the Treasury was thereby authorized and directed to exercise on behalf of the United States any and all rights accruing to the holder of such stock; that thereafter, pursuant to said Executive Order No. 7848 and said Acts of Congress therein referred to, all of the capital stock of said Commodity Credit Corporation was so transferred to the Secretary of the Treasury, and since that time all of said stock has been, and the same now is, so held by the Secretary of the Treasury.

II.

That included in the purposes for which said Commodity Credit Corporation was so organized

and exists is the lending upon commodities produced in the United States, agricultural and otherwise, so as to enable producers thereof to finance the carrying and orderly marketing of such commodities, to assist in the orderly marketing of such commodities for domestic consumption and for export, to assist in the regulation of interstate and foreign commerce in such commodities to the extent necessary to provide an orderly, adequate, and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, to assist farmers in obtaining, insofar as practicable, parity prices for such commodities and parity of income, to assist consumers in obtaining an adequate and steady supply of such commodities at fair prices, and to assist in the conservation of national resources and in the preservation, maintenance and rebuilding of farm and ranch resources in the national public interest; that under its charter and by-laws said corporation is and was at all times herein mentioned authorized and empowered to deal in such commodities, agricultural and otherwise, as may from time to time [38] be designated by the President of the United States; that the President of the United States has designated cotton as such commodity.

III.

That pursuant to its public purposes and governmental functions and powers and authority so

vested in it, and as the means for carrying out such purposes and functions, said Commodity Credit Corporation heretofore has advanced large sums of money to producers of cotton, secured by cotton deposited in various warehouses and by warehouse receipts covering such cotton which have been delivered to and are held by said corporation; that under the loan agreements pursuant to which said money was so advanced said cotton is pledged to said corporation as security for said advances and for all fees, costs and expenses incident to insuring, carrying, handling and marketing said collateral, including reasonable attorney fees, and said corporation has possession and the right to possession of said cotton, and in the event of sales of said cotton by said corporation because of non-payment of said advances when due, or because of the happenings of any other contingencies giving said corporation the right to sell said cotton, the respective borrowers who have complied with the terms of said loan agreement have no personal liability for any deficiencies resulting from said sales, the liability of said respective borrowers in such event being limited to said callateral so pledged.

IV.

That prior to 12 o'clock meridian Monday, of March 7, 1938, said Commodity Credit Corporation had in its possession, through the negotiation to it of warehouse receipts, and on deposit in a certain

warehouse belonging to Valley Compress Company, at Pinedale, Fresno County, California, a large quantity of cotton [39] on which said Commodity Credit Corporation had so advanced large sums of money to the producers thereof, and of which it had such possession and right to possession, and in and to which it held such rights, liens and interests, and certain of said cotton has continuously since said date remained on deposit in said warehouse and in such possession of said Commodity Credit Corporation, and it has continued to hold and how holds said warehouse receipts and said rights, liens and interests, and said cotton now is so deposited in said warehouse and is in the possession of said Commodity Credit Corporation by virtue of said warehouse receipts. That on the 7th day of March, 1938, 12 o'clock meridian, and between such time and the 21st day of June, 1938, and after such June 21, 1938, the Commodity Credit Corporation received and had in its possession, through the negotiation to it of warehouse receipts, and on deposit in said warehouse a large quantity of cotton on which said Commodity Credit Corporation had, at such times, advanced large sums of money to the producers thereof and on which it held warehouse receipts and of which it had such possession and right of possession and in and to which it held such rights, liens and interests, and certain of said cotton has continuously since said times remained on deposit in said warehouse and in such posses-

sion of said Commodity Credit Corporation, and it has continued to hold and now holds said warehouse receipts and said rights, liens and interests, and said cotton is now so deposited in said warehouse and is in possession of said Commodity Credit Corporation by virtue of said warehouse receipts.

V.

That on said 7th day of March, 1938, and continuously thereafter, defendant G. P. Cummings was, and he now is, County Assessor of the County of Fresno, State of California, and at all [40] times herein mentioined defendant County of Fresno was, and it now is, a political subdivision of the State of California; that defendant G. P. Cummings, as said Assessor, purporting to act under and pursuant to the statutes of the State of California, has, from time to time between March 7, 1938, and June 21, 1938, levied assessments upon all of the cotton that was so deposited in said warehouse belonging to said Valley Compress Company, including all of said cotton then so deposited by said Commodity Credit Corporation and covered by said warehouse receipts so held by said Commodity Credit Corporation; that said cotton was so assessed at the full assessable value thereof without any deductions or allowances whatsoever being made by reason of the rights, liens and interests of said Commodity Credit Corporation therein, and without any consideration whatsoever being given to said rights,

liens and interests; that on the 21st day of June, 1938, said defendant, as said Assessor, purporting to act under and pursuant to the statutes of the State of California, seized and gave notice that he had on that day seized possession of 20,990 bales of cotton in said warehouse of said Valley Compress Company and that he would sell the same, or so much thereof as may be necessary, to satisfy the taxes so levied and assessed against said 20,990 bales of cotton, together with the cost of seizure and other costs, at public auction, on Wednesday, June 29, 1938, at the hour of 10 o'clock a. m., of said day at the warehouse of said Valley Compress Company at Pinedale, Fresno County, California; that said 20,990 bales of cotton which said Assessor claims to have so assessed and seized and which is so noticed for sale, includes the cotton referred to and described in paragraph IV hereof; and that in the case of cotton on which the Commodity Credit Corporation had made such advances to producers between the 7th day of March, 1938, and the 21st day of June, 1938, the ad- [41] vances were in some instances made before the levy of assessment and in some instances after such levy of assessment. That on said 7th day of March, 1938, and at all times thereafter, the market value of said cotton, so included in said 20,990 bales and on which said Commodity Credit Corporation made said advances, was, and the same now is, substantially equal to or less than the amounts so advanced thereon, and at

all of said times the interest of the Commodity Credit Corporation in and to said cotton was and now is public property of the United States so held by said Commodity Credit Corporation as said instrumentality and agency of the United States; that said rights, liens and interests of plaintiff in and to said property are exempt from taxation by the State of California, and by every political subdivision thereof, under the Constitution and laws of the United States, and also under section I of Article XIII of the Constitution of the State of California, and also under section 3607 of the Political Code of the State of California.

VI.

That notwithstanding the premises defendant G. P. Cummings threatens to offer said 20,990 bales of cotton for sale as in said notice specified, entirely irrespective of said rights, liens and interests of plaintiff herein and without in any way reserving or protecting said rights, liens or interests, and will then and there sell said cotton to any bidder whose bid shall be at least equal to the purported tax assessed thereon, together with costs of seizure and sale, unless some better bid is obtained therefor, entirely irrespective of the fact that the value of said cotton is far in excess of such bid and entirely irrespective of the fact that said purchaser may be without financial responsibility to respond for the damages and loss that will result to plaintiff by

reason of said sale, and defendant G. P. [42] Cummings threatens to and will thereupon undertake to convey said cotton to said purchaser and to vest title thereto in said purchaser, and threatens to and will thereupon take possession of said cotton so seized and sold and deliver the same to said purchaser, and said purchaser will undertake to dispose of and sell and deliver said cotton to others; that under the laws of the State of California under and pursuant to which said sale has been noticed and will be held, the owners of said property are given and accorded no rights of redemption whatsoever; that as a result of the aforesaid facts and circumstances plaintiff will be deprived of its possession and of its lien and its rights and remedies to realize, recover and collect its advances secured by said cotton will be lost or impaired.

VII.

That defendant G. P. Cummings is a resident and citizen of the County of Fresno, State of California, and of the Southern District of California, Central Division, and the said County of Fresno is situated within the Southern District of California, Central Division thereof.

VIII.

That this suit arises under the Constitution and laws of the United States and involves rights, privileges and immunities owned and claimed by the

plaintiff under the Constitution and laws of the United States and denied and disputed by the defendants.

IX.

That the matter in controversy herein, exclusive of interest and costs, amounts to more than $3,000, and in that regard plaintiff alleges that the amount of said tax and the value of the said property and the value of the interest of the plaintiff therein each exceeds the sum of $3,000. [43]

X.

That this suit is brought under and pursuant to the Federal Declaratory Judgment Act (Judicial Code, section 274d, 28 U.S.C.A., section 400); that an actual controversy exists between plaintiff and defendants herein in that plaintiff contends that it has acquired rights, interests and liens in and to the cotton on which it has made advances and has acquired and holds warehouse receipts as aforesaid, and that said rights, interests and liens so acquired and held by plaintiff constitute property that is exempt from taxation by the State of California and all political subdivisions of said state, and that no valid or legal assessment can be made of said cotton, and no valid or legal actions or proceedings can be had or taken respecting the seizure and sale thereof for non-payment of taxes, unless said assessments and said actions and proceedings are expressly made subject to all said rights, interests

and liens of plaintiff in and to said cotton, and unless any tax sales of said cotton are by express terms made subject to all said rights, interest and liens of plaintiff; on the other hand, defendants contend that said cotton is subject to assessment and taxation by the State of California and its political subdivisions, and is subject to seizure and sale in the event of non-payment of taxes, without said assessments, seizures or sales being made subject to said rights, interests and liens of plaintiff.

Wherefore, plaintiff prays:

1. That this Court adjudge, decree and declare the legal rights of the parties hereto, respecting the assessment of taxes by defendants on the cotton on which plaintiff has made advances and holds warehouse receipts as aforesaid, and respect- [44] ing the seizure and sale of said cotton in the event of the nonpayment of such taxes, and that this Court adjudge and decree that all such assessments, seizures and sales are illegal and void unless the same are expressly made subject to the rights, interests and liens of plaintiff in and to said cotton.

2. That plaintiff have such other and further relief as may seem meet and just.

JOHN D. GOODLOE,
REGINALD S. LAUGHLIN,
Attorneys for Plaintiff. [45]

State of California,
City and County of San Francisco—ss.

Reginald S. Laughlin, being first duly sworn, deposes and says:

I am one of the attorneys for plaintiff in this action; that I have read the foregoing Complaint, and know the contents thereof, and the same is true of my own knowledge, except as to matters stated therein on information and belief, and as to those matters I believe it to be true; that the reason why this verification is not made by an officer of plaintiff corporation is that none of its officers are now within the State of California where I reside.

REGINALD S. LAUGHLIN.

Subscribed and sworn to before me this 24th day of October, 1938.

[Seal] LULU P. LOVELAND,
Notary Public in and for the City and County of San Francisco, State of California.

Received a copy of the foregoing this 25th day of Oct., 1938.

DAN F. CONWAY,
W. C. TUPPER,
Attorneys for defendant.

[Endorsed]: Filed Oct. 25, 1938, at ..... min. past ..... o'clock .....m. R. S. Zimmerman, Clerk. By Francis E. Cross, Deputy. [46]

[Title of District Court and Cause.]

MOTION TO DISMISS AMENDED BILL OF COMPLAINT.

Come now the defendants above named and file herein a motion to dismiss the amended bill of complaint in the above entitled matter upon the following grounds, to-wit: [47]

I.

That said amended bill of complaint does not state facts sufficient to constitute a cause of action against these defendants.

DAN F. CONWAY,
District Attorney, County of Fresno.
W. C. TUPPER,
Assistant District Attorney, County of Fresno.
Attorneys for Defendants.

Received a copy of the foregoing this 25th day of Oct., 1938.

JOHN D. GOODLOE,
REGINALD S. LAUGHLIN,
Attorneys for Plaintiff.

[Endorsed]: Filed Oct. 25, 1938, at ..... min. past ..... o'clock .....m. R. S. Zimmerman, Clerk. By Francis E. Cross, Deputy. [48]

[Title of District Court and Cause.]

MEMORANDUM OF ORDER.

The defendants' motion to dismiss plaintiff's amended complaint is denied on the authority of City of New Brunswick vs. United States, 276 U.S. 547, and Webster vs. Board of Regents, 163 Cal. 705, for the reason that the lien interest of the Commodity Credit Corporation, an agency wholly owned by the United States, may not be burdened through taxation by the state or its subdivisions.

Such being the view of the Court, plaintiff is entitled to judgment for declaratory relief, petitioned for in its amended complaint, and it will propose a decree accordingly.

January 11, 1939.

[Endorsed]: Filed Jan. 12, 1939. R. S. Zimmerman, Clerk. By Francis E. Cross, Deputy Clerk. [50]

In the District Court of the United States, Southern District of California, Northern Division.

Equity No. E-26.

COMMODITY CREDIT CORPORATION,
Plaintiff,

vs.

COUNTY OF FRESNO and G. P. CUMMINGS, Assessor of the County of Fresno, State of California,
Defendants.

JUDGMENT

On the 25th day of October, 1938, plaintiff, by its attorneys, John D. Goodloe, Esq., and Reginald S. Laughlin, Esq., with leave of defendants and this court, duly filed its amended bill of complaint herein, and thereafter on said day defendants, by their attorneys, Dan F. Conway, Esq., District Attorney, County of Fresno, and W. C. Tupper, Esq., Assistant District Attorney, County of Fresno, duly filed a motion to dismiss said amended bill of complaint, and thereafter on said day said motion to dismiss said amended bill of complaint came on regulary for hearing before the above entitled court, Honorable George Cosgrave, District Judge, presiding, Edward F. Treadwell, Esq., and Hans A. Klagsbrunn, Esq., appearing for plaintiff, and said W. C. Tupper, Esq., and James J. Arditto,

Esq., Deputy Attorney General, appearing for defendants, and said motion having been orally argued and thereafter written memoranda of points and authorities having been filed herein by the respective parties, and said motion having been duly submitted to the court, and the court being fully advised in the premises and having denied said motion to dismiss said amended bill of complaint, and the defendants not desiring to further answer or plead, It Hereby Is Adjudged and Decreed: [51]

1. That plaintiff is an arm and instrumentality of the United States, wholly owned by the United States and engaged exclusively in exercising governmental functions of the United States.

2. That plaintiff, as such arm and instrumentality and in the exercise of such functions, has acquired and holds rights, liens and interests in and to the cotton referred to in the complaint herein on which plaintiff has made advances and obtained and holds warehouse receipts as set forth in said complaint, and said rights, liens and interests are immune from taxation by the State and all political subdivisions thereof.

3. That said rights of plaintiff in and to said cotton include the right to the possession thereof.

4. That defendants can make no valid or legal assessments against plaintiff's rights, liens and interests in and to said cotton, and can make no valid or legal seizures or sales of said cotton in the event of the non-payment of any taxes assessed or

levied against said cotton or any interest therein, unless all said rights, liens and interests of plaintiff in and to said cotton are expressly excluded therefrom, and unless such seizures and sales are made, by express terms, subject to such rights, liens and interests including the right of possession thereto.

5. That plaintiff is entitled to recover its costs of suit from defendants, taxed at the sum of $38.30.

Done in open court this 3d day of March, 1939.

GEO. COSGRAVE,

District Judge.

Judgment entered March 4, 1939. Docketed March 4, 1939—"C". Book CO 1, Page 25.

R. S. ZIMMERMAN,

Clerk.

By FRANCIS E. CROSS,

Deputy.

[Endorsed]: Filed Mar. 4, 1939. R. S. Zimmerman, Clerk, by Francis E. Cross, Deputy Clerk. [52]

[Title of District Court and Cause.]

NOTICE OF APPEAL TO THE UNITED STATES CIRCUIT COURT OF APPEAL IN AND FOR THE NINTH CIRCUIT.

Notice Is Hereby Given that the County of Fresno, and G. P. Cummings, Assessor of the County of Fresno, State of [53] California, defendants above named, hereby appeal to the Circuit

Court of Appeals for the Ninth Circuit, from the final judgment entered in this action on March 4, 1939.

Dated: May 4th, 1939.

DAN F. CONWAY,
District Attorney, County of Fresno.
W. C. TUPPER,
Assistant District Attorney, County of Fresno.
Attorneys for Appellant.
Address: Court House,
Fresno, California.
EARL WARREN,
Attorney General, State of California.
JAMES J. ARDITTO,
Deputy Attorney General,
As of Counsel.

[Endorsed]: Filed May 5, 1939. Copies mailed to Attorneys for Plf. 5/5/39. R. S. Zimmerman, Clerk, by Edmund L. Smith, Deputy Clerk. [54]

[Title of District Court and Cause.]

COST BOND

Know All Men by These Presents:

That we, County of Fresno, California, and G. P. Cummings, County Assessor of Fresno County, California, as Principals, and Hartford Accident

& Indemnity Company, a body corporate, duly incorporated under the laws of the State of Connecticut, and authorized to act as Surety under the Act of Congress, Approved August 13, 1894, as amended by the Act of Congress Approved March 23, 1910, whose principal office is located in the City of Hartford, As Surety, are held and firmly bound unto the above named Plaintiff in the sum of Two Hundred Fifty and 00/100 ($250.00) Dollars: to which payment well and truly to be made we bind ourselves, jointly and severally, our heirs, administrators, executors, successors and assigns, firmly by these presents. Sealed with our seals and dated this 2nd day of June, 1939.

Whereas, the Defendants, County of Fresno and G. P. Cummings, County Assessor of Fresno County, have prosecuted their appeal to The United States Circuit Court of Appeals For The Ninth Circuit to reverse the decree entered in said cause, by the United States District Court For The Southern District of California, Northern [57] Division, on the 4th day of March, 1939, against said Defendants.

Now, Therefore, the condition of the above obligation is such that if the named Defendants shall prosecute their appeal to effect and answer all costs, not to exceed the sum of Two Hundred Fifty and 00/100 ($250.00) Dollars, if they fail to make good their plea, or the appeal is dismissed or the decree affirmed or such costs as the Appellate Court may award if the judgment is modified, then this obliga-

tion is to be null and void, otherwise to remain in full force and effect.

COUNTY OF FRESNO,
CALIFORNIA,
By W. A. COLLINS,
Chairman of Board of Supervisors.
G. P. CUMMINGS,
HARTFORD ACCIDENT &
INDEMNITY CO.,
By B. F. GATES,
Attorney-in-Fact.
DAN F. CONWAY,
District Attorney, County of Fresno.
W. C. TUPPER,
Assistant District Attorney, County of Fresno.
Attorneys for Appellants.

State of California,
County of Fresno—ss.

On this 2nd day of June in the year one thousand nine hundred and 39 before me, Barbara Warren, a Notary Public in and for said County of Fresno, residing therein, duly commissioned and sworn, personally appeared B. F. Gates known to me to be the Attorney In Fact of the Hartford Accident and Indemnity Company, the Corporation described in and that executed the within instrument, and also known to me to be the person who executed it on behalf of the Corporation therein named, and he

acknowledged to me that such Corporation executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, at my office, in the said County of Fresno the day and year in this certificate first above written.

[Seal] BARBARA WARREN,
Notary Public in and for the County of Fresno, State of California. My Commission will expire Feb. 6, 1941.

[Endorsed]: Filed Jun. 3, 1939. R. S. Zimmerman, Clerk, by Edmund L. Smith, Deputy Clerk. [58]

[Title of District Court and Cause.]

CLERK'S CERTIFICATE

I, R. S. Zimmerman, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the foregoing 58 pages, numbered from 1 to 58, inclusive, contain full, true and correct copy of the Complaint; Temporary Restraining Order and Notice of Hearing of Application for Temporary Injunction; Motion to Dismiss Complaint; Minute Order of July 18, 1938; Stipulation and Order continuing Restraining Order in effect; Stipulation and Order continuing Restraining Order in effect; Stipulation and Order for filing Amended Complaint; Amended Bill of Complaint; Motion to Dismiss Amended Bill of

Complaint; Minute Order of October 25, 1938; Memorandum of Order for Judgment; Judgment; Notice of Appeal; Cost Bond on Appeal, and Designation of Record on Appeal which constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I Do Further Certify that the fees of the Clerk for comparing, correcting and certifying the foregoing record amount to $10.05, and that said amount has been paid me by the Appellants herein.

Witness my hand and the Seal of the District Court of the United States for the Southern District of California, this 10th day of June, A. D. 1939.

[Seal] R. S. ZIMMERMAN,
Clerk.

By EDMUND L. SMITH,
Deputy Clerk. [59]

[Endorsed]: No. 9204. United States Circuit Court of Appeals for the Ninth Circuit. County of Fresno, and G. P. Cummings, Assessor of the County of Fresno, State of California, Appellants, vs. Commodity Credit Corporation, Appellee. Transcript of Record Upon Appeal from the District Court of the United States for the Southern District of California, Northern Division.

Filed June 12, 1939.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the United States Circuit Court of Appeals in and for the Ninth Circuit.

No. 9204

COUNTY OF FRESNO, et al.,

Appellants,

vs.

COMMODITY CREDIT CORPORATION,

Appellee.

DESIGNATION OF PARTS OF THE RECORD FOR CONSIDERATION OF APPELLANTS' POINTS TO BE RELIED UPON ON APPEAL.

Come now the appellants above named and hereby designate for consideration of their points to be relied upon on appeal the same parts of the record as designated for printing.

Dated: June 19th, 1939.

DAN F. CONWAY,
District Attorney, County of Fresno.
W. C. TUPPER,
Assistant District Attorney, County of Fresno.
Attorneys for Appellants.
EARL WARREN,
Attorney General of the State of California.
JAMES J. ARDITTO,
Deputy Attorney General.
Of Counsel.

Receipt of a copy of the within is admitted this 20th day of June, 1939.

By REGINALD S. LAUGHLIN,
Attorney for Appellee.

[Endorsed]: Filed Jun. 20, 1939.

[Title of Circuit Court of Appeals and Cause.]

STATEMENT OF POINTS TO BE RELIED UPON ON APPEAL

Come now the appellants above named and hereby designate the following points upon which they will rely on the appeal herein:

I.

None of the cotton, pledged to the Commodity Credit Corporation, and taxed by the appellants herein, 'belongs to' the Commodity Credit Corporation;

II.

None of the cotton, pledged to the Commodity Credit Corporation, and taxed by the appellants herein, 'belong to' the United States;

III.

A county of the State of California may:

(a) Legally levy a tax upon cotton located within its boundaries and owned by a taxable person at twelve o'clock M. on the first Monday in March, although that cotton has been pledged

to the Commodity Credit Corporation as security for a loan;

(b) Legally effect collection of a tax levied upon that cotton under the circumstances referred to in subdivision (a), supra;

IV.

Congress did not, within the purview of the Constitution of the United States, have the power to create the Commodity Credit Corporation, in that:

(a) The grant by Congress to the President of the United States of the right to create such agencies as the Commodity Credit Corporation constituted an unlawful delegation of power.

(b) The purposes for which the Commodity Credit Corporation was created are not within the enumerated powers granted to Congress by the Constitution of the United States.

Dated: June 19th, 1939.

DAN F. CONWAY,
District Attorney, County of Fresno.

W. C. TUPPER,
Assistant District Attorney, County of Fresno.
Attorneys for Appellants.

EARL WARREN,
Attorney General of the State of California.

JAMES J. ARDITTO,
Deputy Attorney General.
Of Counsel.

Receipt of a copy of the within is admitted this 20th day of June, 1939.

By REGINALD S. LAUGHLIN,
Attorney for Appellee.

[Endorsed]: Filed Jun. 20, 1939.

[Title of Circuit Court of Appeals and Cause.]

DESIGNATION OF PARTS OF RECORD TO BE PRINTED OR OMITTED

To the Clerk of the United States Circuit Court of Appeals in and for the Ninth Circuit:

The appellants above named hereby designate for the printed record the following parts of the certified transcript of record on appeal in the above-entitled matter, to-wit:

Document	Commencing page of certified transcript of record
Attorneys, Names and Address of	1
Bond, For Costs on Appeal	57
Amended Bill of Complaint	33
Judgment	51
Memorandum of Order for Judgment	50
Motion to Dismiss Amended Bill of Complaint	47
Notice of Appeal	53

Appellants hereby designate that the following parts of the certified transcript of record on appeal be omitted from the printed record, to-wit:

Document	Commencing page of certified transcript of record
Bill of Complaint	2
Designation of Contents of Record on Appeal	55
Motion to Dismiss Complaint	22
Order, Temporary Restraining	17
Order, Minute, of July 18, 1938, submitting and continuing restraining order in effect	24
Order, Minute, of October 25, 1938, submitting cause	49
Stipulation and Order continuing restraining order in effect	25
Stipulation and Order continuing restraining order in effect	28
Stipulation and Order for filing Amended Complaint	30

In addition to the documents which we have heretofore designated for the printed record, you are hereby requested to include in the printed record the following documents, to-wit:

1. Designation of Parts of Record to be Printed or Omitted.
2. Statement of Points to be Relied upon on Appeal.

3. Designation of Parts of the Record for Consideration of Appellants' Points to be Relied Upon on Appeal.

Dated: June 19th, 1939.

DAN F. CONWAY,
District Attorney, County of Fresno.
W. C. TUPPER,
Assistant District Attorney, County of Fresno.
Attorneys for Appellants.

EARL WARREN,
Attorney General of the State of California.
JAMES J. ARDITTO,
Deputy Attorney General.
Of Counsel.

Receipt of a copy of the within is admitted this 20th day of June, 1939.

By REGINALD S. LAUGHLIN,
Attorney for Appellees.

[Endorsed]: Filed Jun. 20, 1939.

[Title of Circuit Court of Appeals and Cause.]

DESIGNATION BY APPELLEE OF ADDITIONAL PARTS OF RECORD TO BE PRINTED.

To the Clerk of the United States Circuit Court of Appeals in and for the Ninth Circuit:

Appellee above named hereby designates for the printed record the following additional part of the certified transcript of record on appeal in the above entitled matter:

Document	Commencing page of certified transcript of record
Stipulation and Order for Filing Amended Complaint	30

Dated: June 22nd, 1939.

JOHN D. GOODLOE,
REGINALD S. LAUGHLIN,
Attorneys for Appellee.

[Endorsed]: Filed June 23, 1939.

No. 9204

IN THE

United States Circuit Court of Appeals

For the Ninth Circuit

COUNTY OF FRESNO, and WALTER S. HENDERSON, Jr., Assessor of the County of Fresno, State of California,

Appellant,

vs.

COMMODITY CREDIT CORPORATION,

Appellee.

Upon Appeal from the District Court of the United States for the Southern District of California, Northern Division

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PROCEEDINGS HAD IN THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT.

PARKER PRINTING COMPANY, 545 SANSOME STREET, SAN FRANCISCO

[Title of Circuit Court of Appeals and Cause.]

STIPULATION.

It Is Hereby Stipulated by and between the above named parties through their undersigned attorneys, that Walter S. Henderson, Jr., the present assessor of the County of Fresno, State of California, be and he is hereby substituted as a defendant in said official capacity in the place and stead of G. P. Cummings, Assessor of the County of Fresno, State of California.

Dated: February 14, 1940.

W. C. TUPPER
District Attorney, Fresno County
Attorney for Appellants.

SAMUEL O. CLARK, Jr.
Asst. Atty. General
per B. G.
Attorney for Appellee.

Approved by the Court:

.....
Presiding Justice.

[Endorsed]: Filed Feb. 14, 1940. Paul P. O'Brien, Clerk.

United States Circuit Court of Appeals
for the Ninth Circuit

Excerpt from Proceedings of Wednesday, February 14, 1940.

Before: Denman, Mathews and Healy,
Circuit Judges.

[Title of Cause.]

ORDER SUBSTITUTING PARTY APPELLANT AND SUBMITTING CAUSE

Pursuant to stipulation of counsel for respective parties, Ordered Mr. Walter S. Henderson, Jr., present Assessor of County of Fresno, substituted as party appellant in the place and stead of G. P. Cummings.

Further Ordered appeal herein argued by Mr. James J. Arditto, Deputy Attorney General, State of California, counsel for appellants, and by Mr. Berryman Green, Special Assistant to the Attorney General, counsel for appellee, and submitted to the court for consideration and decision.

United States Circuit Court of Appeals
for the Ninth Circuit

Excerpt from Proceedings of Wednesday, June 12, 1940.

Before: Denman, Mathews and Healy,
Circuit Judges.

[Title of Cause.]

ORDER DIRECTING FILING OF OPINION AND FILING AND RECORDING OF DECREE.

By direction of the Court, Ordered that the typewritten opinion this day rendered by this court in above cause be forthwith filed by the clerk, and that a decree be filed and recorded in the minutes of this court in accordance with the opinion rendered.

[Title of Circuit Court of Appeals and Cause.]

Upon Appeal from the District Court of the United States for the Southern District of California, Northern Division.

OPINION

Before: Denman, Mathews and Healy,
Circuit Judges.

Denman, Circuit Judge:

This is an appeal from a judgment declaring that the County of Fresno has no lien under the California law upon certain cotton situate in that

county by reason of the assessment of its value for taxation to its owner, or its sequestration for the owner's unpaid taxes, which is superior to a lien upon it, created prior to the assessment and sequestration, to secure a loan by the appellee under the provisions of the Agricultural Adjustment Act of 1938.

Appellee, plaintiff below, in its amended complaint alleged facts showing the existence of an actual controversy concerning the priority of the appellants' lien and, as relief, prayed for a determination of the controversy by a declaration of the law controlling the opposing contentions. The appellants, defendants below, moved to dismiss the bill on the ground that it failed to state a cause of action. The motion was denied and the court, finding that the defendant county and its assessor were "not desiring to further answer or plead," proceeded to render in a summary way a declaratory judgment responding to the prayer of the complaint. The defendants' desire and expectation that the court would grant the relief of adjudicating the actual controversy is evidenced by the giving of a stipulation, to be considered in connection with the declaration that they would not answer or plead, agreeing that the court "may provide that no interest or other penalties shall be collected from plaintiff for nonpayment of any of said taxes included in the pending cause and for subsequent years

pending final determination of this action, and defendants will not object to such provision."

We dispose of the controversy by a consideration of the appellants' contention as stated in the amended complaint "that said cotton is subject to assessment and taxation by the State of California and its political subdivisions, and is subject to seizure and sale in the event of non-payment of taxes, without said assessments, seizures or sales being made subject to said rights, interests and liens of plaintiff," and assuming as valid the further claim of appellants' supplemental brief that "The pledgee's lien acquired by the Commodity Credit Corporation herein is in no better position than would be a lien acquired by a private individual."

Appellants contend that under the California law (1) an assessment on personal property creates a lien on the particular property assessed and (2) that, because any tax assessment is to be deemed a judgment against the taxpayer which, if not paid in the statutory period, warrants a seizure and sequestration by the assessor of ANY personal property whether or not it be the property assessed, the seizure creates a lien on the seized property superior to any contract lien existing prior to the seizure. We cannot agree with these contentions.

(1) Personal property has been assessed in California for three-quarters of a century. The Political Code of the State of California, section 3717, creates a specific lien on the taxpayer's real property for personal property taxes assessed to

him. Appellants admit that there is no statute creating a tax lien upon the personal property assessed and that no case has held that personal property is subject to such a tax lien upon its assessment to the owner. The admission is most significant and the novel rule which appellants are now seeking to establish would impair every pledge whether of silver bullion, jewels, bonds, securities or any personal property with state or national banks or any lenders. It seems inconceivable that, if such a prior lien exists, no taxing authority has sought to enforce it and found the taxpayer's resistance in the courts.

Appellants' argument is stated as follows: "* * * the rule in California is that a tax obligation of the State of California or any of its political subdivisions is entitled to priority in payment regardless of whether it has been given any such preference by statute. The California Courts have adopted 'the superior dignity' principle which is that because of the importance of the functions of government and the necessity of raising promptly the revenues necessary to carry out such functions, the obligation to pay taxes is necessarily of much greater dignity and on a much higher plane than ordinary obligations whether secured or unsecured, and therefore must be accorded some inherent priority over ordinary obligations, whether secured or unsecured, and whether such ordinary obligations existed before or after the tax obligation arose." This rule, appellants claim, is established

in the following California cases: California Loan and Trust Co. v. Weis, 118 Cal. 489, 50 Pac. 697; O'Dea v. Mitchell, 144 Cal. 374, 381, 77 Pac. 1020, 1022; Woodil & Hulse Elec. Co. v. Young, 180 Cal. 667, 669, 670, 182 Pac. 422, 424; San Mateo County Bank v. Dupret, 124 Cal. App. 395, 396, 12 Pac. (2d) 669, 670.

Our examination of these authorities shows none holding that a tax lien not specifically created by law overrides a prior contract lien. Whatever may have been said concerning the "superior dignity" principle in earlier cases on liens on real property is overruled by the holding in Guinn v. McReynolds, 177 Cal. 230, 232, where a real estate mortgage lien was held superior to a subsequently created tax lien on the same property, not expressly made a first lien, for expenditures for eradication of disease and pests in orchards and elsewhere.

> "* * * A lien for unpaid taxes or assessments is generally held to be superior to all contract liens, whether prior or subsequent in time. But the authorities declare, virtually without dissent, that even a tax lien is not entitled to rank ahead of a pre-existing mortgage, or other contract lien, unless the legislative enactment creating the tax lien has given it priority. (37 Cyc. 1143.) The priority need not be declared in express terms. It is enough if the intent to postpone contract liens appear by reasonable inference from the provisions of the act. But the

> authorization for displacing the earlier lien must, under all the decisions, be found in the statute. * * *."

We hold there is no merit in appellants' contention that mere assessment of the value of personal property to known or unknown owners creates a lien upon that property.

(2) With regard to the contention that the assessment of any property is in effect a judgment against the taxpayer for the amount of any tax so assessed, section 3716 of the Political Code provides:

> "Every tax has the effect of a judgment against the person, and EVERY LIEN CREATED BY THIS TITLE has the force and effect of an execution duly levied against all property of the delinquent; the judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment thereof provided, that the lien of every tax whether now existing or hereafter attaching shall cease to exist for all purposes after thirty years from the time said tax became a lien; * * *." (Emphasis by the Court)

The next section of the Code, section 3717, provides, "Every tax due upon personal property is a lien upon the REAL property of the owner thereof, from and after twelve o'clock m. of the first Monday in March in each year." Section 3820 of the

Code provides: "The Assessor shall have power to collect the taxes on ALL property when, in his opinion, said taxes are not a lien upon real property sufficient to secure payment of the taxes. * * *." (Emphasis by the Court) And the next section, section 3821 provides that "the assessor may collect the taxes by seizure and sale of ANY personal property owned by the person against whom the tax is assessed, * * *." (Emphasis by the Court)

Here we have the contrast between the specific lien on real property created by the statute and the right to seize ANY personal property whether assessed or not for ANY unpaid taxes, whether upon land or personal property.

On the face of these statutes it would appear that although the jewels of a landowner may not have been assessed, if he fail to pay the taxes upon his land his jewels may be seized by the assessor and sold. With this contention we are not concerned. The question is, assuming the jewels are pledge for a loan and are seized by the assessor, is the pledge lien subordinate to a lien created by the seizure?

In effect, it is claimed by appellants that if different parcels of jewels of the landowner be held by several different banks as pledges for their several loans, the assessor may pick his bank, take from it the pledged jewels free of the pledge, and impose on this particular bank the entire liability for the taxes which may exceed the value of the pledged jewels. Though there be no lien upon the jewels by virtue of the assessment, the assessor's seizure of

the pledge in the hands of the particular bank chosen to discharge the landowner's debt to the county destroys the bank's security.

No authority is cited to sustain this extraordinary proposition—the necessary corollary of the present attempt to destroy or impair the lien of the appellee. We find no merit in it.

Upon the controversy between the appellants and appellee we hold the seizure of the cotton by appellants, because of nonpayment of taxes by the owner, creates no priority over the lien of appellee and that the rights of appellee cannot be impaired or destroyed by such action by appellants.

Judgment affirmed.

[Endorsed]: Opinion. Filed Jun. 12, 1940. Paul P. O'Brien, Clerk.

United States Circuit Court of Appeals
for the Ninth Circuit

No. 9204

COUNTY OF FRESNO, etc., et al.,
Appellants,

vs.

COMMODITY CREDIT CORPORATION,
Appellee.

DECREE

Appeal from the District Court of the United States for the Southern District of California, Northern Division.

This Cause came on to be heard on the Transcript of the Record from the District Court of the United States for the Southern District of California, Northern Division, and was duly submitted.

On Consideration Whereof, it is now here ordered, adjudged, and decreed by this Court, that the decree of the said District Court in this cause be, and hereby is, affirmed.

[Endorsed]: Filed and entered June 12, 1940. Paul P. O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

CERTIFICATE OF CLERK, U. S. CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT, TO RECORD CERTIFIED UNDER RULE 38 OF THE REVISED RULES OF THE SUPREME COURT OF THE UNITED STATES.

I, Paul P. O'Brien, as Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, do hereby certify the foregoing Fifty-one (51) pages, numbered from and including 1 to and including 51, to be a full, true and correct copy of the entire record of the above-entitled case in the said Circuit Court of Appeals, made pursuant to request of counsel for the appellants, and certified under Rule 38 of the Revised Rules of the Supreme Court of the United States, as the originals thereof remain on file and appear of record in my office.

Attest my hand and the seal of the said the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 19th day of July, 1940.

[Seal] PAUL P. O'BRIEN,
Clerk.